

REVISED UNIFORM ANATOMICAL GIFT ACT

2007 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Lyle W. Hillyard

House Sponsor: Fred R. Hunsaker

LONG TITLE

General Description:

This bill repeals the Uniform Anatomical Gift Act and enacts the Revised Uniform Anatomical Gift Act.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes who can make an anatomical gift before the donor's death and the manner of making a gift before death;
- ▶ establishes:
 - procedures for amending or revoking an anatomical gift before death;
 - procedures for refusal to make an anatomical gift and the effect of a refusal;
 - the preclusive effect of an anatomical gift, amendment, or revocation;
 - who may make a gift of a decedent's body or part;
 - the manner of making, amending, or revoking an anatomical gift of a decedent's body or part;
 - persons that may receive an anatomical gift;
 - which persons should make a reasonable search for documents of gift; and
 - rights and duties of procurement organizations and others;
- ▶ coordinates procurement and use;
- ▶ prohibits the sale or purchase of parts, and other certain acts;
- ▶ provides limited immunity to a person that acts in accordance with the act;
- ▶ provides choice of laws as to execution of document and a presumption of validity;

- ▶ authorizes the Department of Public Safety to establish or contract with another to establish a donor registry;
- ▶ establishes the effect of an anatomical gift on an advanced health care directive;
- ▶ requires certain cooperation between the medical examiner and a procurement organization;
- ▶ establishes relationship of the act with electronic global and national electronic signatures act; and
- ▶ makes technical and conforming amendments.

Monies Appropriated in this Bill:

None

Other Special Clauses:

This bill takes effect on July 1, 2007.

Utah Code Sections Affected:**AMENDS:**

26-2-17, as last amended by Chapter 56, Laws of Utah 2006

26-4-4, as last amended by Chapter 10, Laws of Utah 1997

53-1-106, as last amended by Chapters 2 and 169, Laws of Utah 2005

53-3-205, as last amended by Chapters 189, 201, 293 and 331, Laws of Utah 2006

53-3-207, as last amended by Chapter 20, Laws of Utah 2005

53-3-804, as last amended by Chapters 189 and 331, Laws of Utah 2006

53-3-805, as last amended by Chapters 131 and 331, Laws of Utah 2006

76-9-704, as last amended by Chapter 143, Laws of Utah 2005

ENACTS:

26-28-101, Utah Code Annotated 1953

26-28-102, Utah Code Annotated 1953

26-28-103, Utah Code Annotated 1953

26-28-104, Utah Code Annotated 1953

26-28-105, Utah Code Annotated 1953

- 58 **26-28-106**, Utah Code Annotated 1953
59 **26-28-107**, Utah Code Annotated 1953
60 **26-28-108**, Utah Code Annotated 1953
61 **26-28-109**, Utah Code Annotated 1953
62 **26-28-110**, Utah Code Annotated 1953
63 **26-28-111**, Utah Code Annotated 1953
64 **26-28-112**, Utah Code Annotated 1953
65 **26-28-113**, Utah Code Annotated 1953
66 **26-28-114**, Utah Code Annotated 1953
67 **26-28-115**, Utah Code Annotated 1953
68 **26-28-116**, Utah Code Annotated 1953
69 **26-28-117**, Utah Code Annotated 1953
70 **26-28-118**, Utah Code Annotated 1953
71 **26-28-119**, Utah Code Annotated 1953
72 **26-28-120**, Utah Code Annotated 1953
73 **26-28-121**, Utah Code Annotated 1953
74 **26-28-122**, Utah Code Annotated 1953
75 **26-28-123**, Utah Code Annotated 1953
76 **26-28-124**, Utah Code Annotated 1953
77 **26-28-125**, Utah Code Annotated 1953
78 REPEALS:
79 **26-28-1**, as repealed and reenacted by Chapter 131, Laws of Utah 1990
80 **26-28-2**, as last amended by Chapter 149, Laws of Utah 2004
81 **26-28-3**, as last amended by Chapter 149, Laws of Utah 2004
82 **26-28-4**, as last amended by Chapter 343, Laws of Utah 1995
83 **26-28-5**, as last amended by Chapter 343, Laws of Utah 1995
84 **26-28-6**, as last amended by Chapter 149, Laws of Utah 2004
85 **26-28-7**, as last amended by Chapter 343, Laws of Utah 1995

86 **26-28-8**, as last amended by Chapter 343, Laws of Utah 1995
87 **26-28-9**, as last amended by Chapter 343, Laws of Utah 1995
88 **26-28-10**, as last amended by Chapter 343, Laws of Utah 1995
89 **26-28-11**, as last amended by Chapter 343, Laws of Utah 1995
90 **26-28-12**, as enacted by Chapter 131, Laws of Utah 1990

92 *Be it enacted by the Legislature of the state of Utah:*

93 Section 1. Section **26-2-17** is amended to read:

94 **26-2-17. Certificate of death -- Registration prerequisite to interment --**
95 **Burial-transit permits -- Procedure where body donated under anatomical gift law --**
96 **Permit for disinterment.**

97 (1) A dead body or dead fetus may not be interred or otherwise disposed of or removed
98 from the registration district in which death or fetal death occurred or the remains are found
99 until a certificate of death is registered.

100 (2) For deaths or fetal deaths which occur in this state, no burial-transit permit is
101 required for final disposition of the remains if:

102 (a) disposition occurs in the state and is performed by a funeral service director; or
103 (b) the disposition takes place with authorization of the next of kin and in a general
104 acute hospital, as defined in Section 26-21-2, that is licensed by the department, or in a
105 pathology laboratory operated under contract with a general acute hospital licensed by the
106 department.

107 (3) A burial-transit permit shall be issued by the local registrar of the district where the
108 certificate of death or fetal death is registered:

109 (a) for dead bodies or fetuses to be transported out of the state for final disposition; or
110 (b) when disposition is made by a person other than a funeral service director.

111 (4) A burial-transit permit issued under the law of another state which accompanies a
112 dead body or dead fetus brought into this state is authority for final disposition of the dead
113 body or dead fetus in this state.

(5) When a dead body or dead fetus or any part of the dead body or dead fetus has been donated under the ~~[Utah]~~ Revised Uniform Anatomical Gift Act or similar laws of another state and the preservation of the gift requires the immediate transportation of the dead body, dead fetus, or any part of the body or fetus outside of the registration district in which death occurs or the remains are found, or into this state from another state, the dead body or dead fetus or any part of the body or fetus may be transported and the burial-transit permit required by this section obtained within a reasonable time after transportation.

(6) A permit for disinterment and reinterment is required prior to disinterment of a dead body or dead fetus, except as otherwise provided by statute or department rule.

Section 2. Section **26-4-4** is amended to read:

26-4-4. Chief medical examiner -- Appointment -- Qualifications -- Authority.

(1) The executive director, with the advice of an advisory board consisting of the chairman of the Department of Pathology at the University of Utah medical school and the dean of the law school at the University of Utah, shall appoint a chief medical examiner who shall be licensed to practice medicine in the state and shall meet the qualifications of a forensic pathologist, certified by the American Board of Pathologists.

(2) (a) The medical examiner shall serve at the will of the executive director. ~~[He shall have]~~

(b) The medical examiner has authority to:

(i) employ ~~[such]~~ medical, technical and clerical personnel as may be required to effectively administer this chapter, subject to the rules of the department and the state merit system~~[- He shall have authority to];~~

(ii) conduct investigations~~[-]~~ and pathological examinations~~[- and];~~

(iii) perform autopsies authorized in this title~~[- The medical examiner shall have authority to];~~

(iv) conduct or authorize necessary examinations on dead bodies; and

(v) notwithstanding the provisions of Subsection 26-28-122(3), retain tissues and biological samples for scientific purposes and those [he] the medical examiner considers

necessary to accurately certify the cause and manner of death.

(c) In the case of an unidentified body, the medical examiner shall authorize or conduct investigations, tests and processes in order to determine its identity as well as the cause of death.

(3) The medical examiner may appoint regional pathologists, each of whom shall be approved by the executive director.

Section 3. Section **26-28-101** is enacted to read:

CHAPTER 28. Revised Uniform Anatomical Gift Act

26-28-101. Title.

This chapter is known as the "Revised Uniform Anatomical Gift Act."

Section 4. Section **26-28-102** is enacted to read:

26-28-102. Definitions.

As used in this chapter:

(1) "Adult" means an individual who is at least 18 years of age.

(2) "Agent" means an individual:

(a) authorized to make health care decisions on the principal's behalf by a power of attorney for health care; or

(b) expressly authorized to make an anatomical gift on the principal's behalf by any other record signed by the principal.

(3) "Anatomical gift" means a donation of all or part of a human body to take effect after the donor's death for the purpose of transplantation, therapy, research, or education.

(4) "Decedent" means:

(a) a deceased individual whose body or part is or may be the source of an anatomical gift; and

(b) includes:

(i) a stillborn infant; and

(ii) subject to restrictions imposed by law other than this chapter, a fetus.

(5) (a) "Disinterested witness" means:

(i) a witness other than the spouse, child, parent, sibling, grandchild, grandparent, or guardian of the individual who makes, amends, revokes, or refuses to make an anatomical gift; or

(ii) another adult who exhibited special care and concern for the individual.

(b) "Disinterested witness" does not include a person to which an anatomical gift could pass under Section 26-28-111.

(6) "Document of gift" means a donor card or other record used to make an anatomical gift. The term includes a statement or symbol on a driver license, identification card, or donor registry.

(7) "Donor" means an individual whose body or part is the subject of an anatomical gift.

(8) "Donor registry" means a database that contains records of anatomical gifts and amendments to or revocations of anatomical gifts.

(9) "Driver license" means a license or permit issued by the Driver License Division of the Department of Public Safety, to operate a vehicle, whether or not conditions are attached to the license or permit.

(10) "Eye bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of human eyes or portions of human eyes.

(11) "Guardian":

(a) means a person appointed by a court to make decisions regarding the support, care, education, health, or welfare of an individual; and

(b) does not include a guardian ad litem.

(12) "Hospital" means a facility licensed as a hospital under the law of any state or a facility operated as a hospital by the United States, a state, or a subdivision of a state.

(13) "Identification card" means an identification card issued by the Driver License Division of the Department of Public Safety.

(14) "Know" means to have actual knowledge.

- 198 (15) "Minor" means an individual who is under 18 years of age.
- 199 (16) "Organ procurement organization" means a person designated by the Secretary of
200 the United States Department of Health and Human Services as an organ procurement
201 organization.
- 202 (17) "Parent" means a parent whose parental rights have not been terminated.
- 203 (18) "Part" means an organ, an eye, or tissue of a human being. The term does not
204 include the whole body.
- 205 (19) "Person" means an individual, corporation, business trust, estate, trust,
206 partnership, limited liability company, association, joint venture, public corporation,
207 government or governmental subdivision, agency, or instrumentality, or any other legal or
208 commercial entity.
- 209 (20) "Physician" means an individual authorized to practice medicine or osteopathy
210 under the law of any state.
- 211 (21) "Procurement organization" means an eye bank, organ procurement organization,
212 or tissue bank.
- 213 (22) "Prospective donor":
- 214 (a) means an individual who is dead or near death and has been determined by a
215 procurement organization to have a part that could be medically suitable for transplantation,
216 therapy, research, or education; and
- 217 (b) does not include an individual who has made a refusal.
- 218 (23) "Reasonably available" means able to be contacted by a procurement organization
219 without undue effort and willing and able to act in a timely manner consistent with existing
220 medical criteria necessary for the making of an anatomical gift.
- 221 (24) "Recipient" means an individual into whose body a decedent's part has been or is
222 intended to be transplanted.
- 223 (25) "Record" means information that is inscribed on a tangible medium or that is
224 stored in an electronic or other medium and is retrievable in perceivable form.
- 225 (26) "Refusal" means a record created under Section 26-28-107 that expressly states an

intent to bar other persons from making an anatomical gift of an individual's body or part.

(27) "Sign" means, with the present intent to authenticate or adopt a record:

(a) to execute or adopt a tangible symbol; or

(b) to attach to or logically associate with the record an electronic symbol, sound, or process.

(28) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(29) "Technician":

(a) means an individual determined to be qualified to remove or process parts by an appropriate organization that is licensed, accredited, or regulated under federal or state law; and

(b) includes an enucleator.

(30) "Tissue" means a portion of the human body other than an organ or an eye. The term does not include blood unless the blood is donated for the purpose of research or education.

(31) "Tissue bank" means a person that is licensed, accredited, or regulated under federal or state law to engage in the recovery, screening, testing, processing, storage, or distribution of tissue.

(32) "Transplant hospital" means a hospital that furnishes organ transplants and other medical and surgical specialty services required for the care of transplant patients.

Section 5. Section **26-28-103** is enacted to read:

26-28-103. Applicability.

This chapter applies to an anatomical gift or amendment to, revocation of, or refusal to make an anatomical gift, whenever made.

Section 6. Section **26-28-104** is enacted to read:

26-28-104. Who may make anatomical gift before donor's death.

Subject to Section 26-28-108, an anatomical gift of a donor's body or part may be made during the life of the donor for the purpose of transplantation, therapy, research, or education in

the manner provided in Section 26-28-105 by:

(1) the donor, if the donor is an adult or if the donor is a minor and is:

(a) emancipated; or

(b) authorized under state law to apply for a driver license because the donor is at least 15 years of age;

(2) an agent of the donor, unless the power of attorney for health care or other record prohibits the agent from making an anatomical gift;

(3) a parent of the donor, if the donor is an unemancipated minor; or

(4) the donor's guardian.

Section 7. Section **26-28-105** is enacted to read:

26-28-105. Manner of making anatomical gift before donor's death.

(1) A donor may make an anatomical gift:

(a) by authorizing a statement or symbol indicating that the donor has made an anatomical gift to be imprinted on the donor's driver license or identification card;

(b) in a will;

(c) during a terminal illness or injury of the donor, by any form of communication addressed to at least two adults, at least one of whom is a disinterested witness; or

(d) as provided in Subsection (2).

(2) A donor or other person authorized to make an anatomical gift under Section 26-28-104 may make a gift by a donor card or other record signed by the donor or other person making the gift or by authorizing that a statement or symbol indicating that the donor has made an anatomical gift be included on a donor registry. If the donor or other person is physically unable to sign a record, the record may be signed by another individual at the direction of the donor or other person and must:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) state that it has been signed and witnessed as provided in Subsection (2)(a).

(3) Revocation, suspension, expiration, or cancellation of a driver license or

identification card upon which an anatomical gift is indicated does not invalidate the gift.

(4) An anatomical gift made by will takes effect upon the donor's death whether or not the will is probated. Invalidation of the will after the donor's death does not invalidate the gift.

Section 8. Section **26-28-106** is enacted to read:

26-28-106. Amending or revoking anatomical gift before donor's death.

(1) Subject to Section 26-28-108, a donor or other person authorized to make an anatomical gift under Section 26-28-104 may amend or revoke an anatomical gift by:

(a) a record signed by:

(i) the donor;

(ii) the other person; or

(iii) subject to Subsection (2), another individual acting at the direction of the donor or the other person if the donor or other person is physically unable to sign; or

(b) a later-executed document of gift that amends or revokes a previous anatomical gift or portion of an anatomical gift, either expressly or by inconsistency.

(2) A record signed pursuant to Subsection (1)(a)(iii) must:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the donor or the other person; and

(b) state that it has been signed and witnessed as provided in Subsection (1)(a).

(3) Subject to Section 26-28-108, a donor or other person authorized to make an anatomical gift under Section 26-28-104 may revoke an anatomical gift by the destruction or cancellation of the document of gift, or the portion of the document of gift used to make the gift, with the intent to revoke the gift.

(4) A donor may amend or revoke an anatomical gift that was not made in a will by any form of communication during a terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(5) A donor who makes an anatomical gift in a will may amend or revoke the gift in the manner provided for amendment or revocation of wills or as provided in Subsection (1).

Section 9. Section **26-28-107** is enacted to read:

26-28-107. Refusal to make anatomical gift -- Effect of refusal.

(1) An individual may refuse to make an anatomical gift of the individual's body or part by:

(a) a record signed by:

(i) the individual; or

(ii) subject to Subsection (2), another individual acting at the direction of the individual if the individual is physically unable to sign;

(b) the individual's will, whether or not the will is admitted to probate or invalidated after the individual's death; or

(c) any form of communication made by the individual during the individual's terminal illness or injury addressed to at least two adults, at least one of whom is a disinterested witness.

(2) A record signed pursuant to Subsection (1)(a)(ii) must:

(a) be witnessed by at least two adults, at least one of whom is a disinterested witness, who have signed at the request of the individual; and

(b) state that it has been signed and witnessed as provided in Subsection (1)(a).

(3) An individual who has made a refusal may amend or revoke the refusal:

(a) in the manner provided in Subsection (1) for making a refusal;

(b) by subsequently making an anatomical gift pursuant to Section 26-28-105 that is inconsistent with the refusal; or

(c) by destroying or canceling the record evidencing the refusal, or the portion of the record used to make the refusal, with the intent to revoke the refusal.

(4) Except as otherwise provided in Subsection 26-28-108(8), in the absence of an express, contrary indication by the individual set forth in the refusal, an individual's unrevoked refusal to make an anatomical gift of the individual's body or part bars all other persons from making an anatomical gift of the individual's body or part.

Section 10. Section **26-28-108** is enacted to read:

26-28-108. Preclusive effect of anatomical gift, amendment, or revocation.

(1) Except as otherwise provided in Subsection (7) and subject to Subsection (6), in the

338 absence of an express, contrary indication by the donor, a person other than the donor is barred
339 from making, amending, or revoking an anatomical gift of a donor's body or part if the donor
340 made an anatomical gift of the donor's body or part under Section 26-28-105 or an amendment
341 to an anatomical gift of the donor's body or part under Section 26-28-106.

342 (2) A donor's revocation of an anatomical gift of the donor's body or part under Section
343 26-28-106 is not a refusal and does not bar another person specified in Section 26-28-104 or
344 26-28-109 from making an anatomical gift of the donor's body or part under Section 26-28-105
345 or 26-28-110.

346 (3) If a person other than the donor makes an unrevoked anatomical gift of the donor's
347 body or part under Section 26-28-105 or an amendment to an anatomical gift of the donor's
348 body or part under Section 26-28-106, another person may not make, amend, or revoke the gift
349 of the donor's body or part under Section 26-28-110.

350 (4) A revocation of an anatomical gift of a donor's body or part under Section
351 26-28-106 by a person other than the donor does not bar another person from making an
352 anatomical gift of the body or part under Section 26-28-105 or 26-28-110.

353 (5) In the absence of an express, contrary indication by the donor or other person
354 authorized to make an anatomical gift under Section 26-28-104, an anatomical gift of a part is
355 neither a refusal to give another part nor a limitation on the making of an anatomical gift of
356 another part at a later time by the donor or another person.

357 (6) In the absence of an express, contrary indication by the donor or other person
358 authorized to make an anatomical gift under Section 26-28-104, an anatomical gift of a part for
359 one or more of the purposes set forth in Section 26-28-104 is not a limitation on the making of
360 an anatomical gift of the part for any of the other purposes by the donor or any other person
361 under Section 26-28-105 or 26-28-110.

362 (7) If a donor who is an unemancipated minor dies, a parent of the donor who is
363 reasonably available may revoke or amend an anatomical gift of the donor's body or part.

364 (8) If an unemancipated minor who signed a refusal dies, a parent of the minor who is
365 reasonably available may revoke the minor's refusal.

Section 11. Section **26-28-109** is enacted to read:

26-28-109. Who may make anatomical gift of decedent's body or part.

(1) Subject to Subsections (2) and (3) and unless barred by Section 26-28-107 or 26-28-108, an anatomical gift of a decedent's body or part for purpose of transplantation, therapy, research, or education may be made by any member of the following classes of persons who is reasonably available, in the order of priority listed:

(a) an agent of the decedent at the time of death who could have made an anatomical gift under Subsection 26-28-104(2) immediately before the decedent's death;

(b) the spouse of the decedent;

(c) adult children of the decedent;

(d) parents of the decedent;

(e) adult siblings of the decedent;

(f) adult grandchildren of the decedent;

(g) grandparents of the decedent;

(h) the persons who were acting as the guardians of the person of the decedent at the time of death; and

(i) any other person having the authority to dispose of the decedent's body.

(2) If there is more than one member of a class listed in Subsection (1)(a), (c), (d), (e), (f), (g), or (i) entitled to make an anatomical gift, an anatomical gift may be made by a member of the class unless that member or a person to which the gift may pass under Section 26-28-111 knows of an objection by another member of the class. If an objection is known, the gift may be made only by a majority of the members of the class who are reasonably available.

(3) A person may not make an anatomical gift if, at the time of the decedent's death, a person in a prior class under Subsection (1) is reasonably available to make or to object to the making of an anatomical gift.

Section 12. Section **26-28-110** is enacted to read:

26-28-110. Manner of making, amending, or revoking anatomical gift of decedent's body or part.

(1) A person authorized to make an anatomical gift under Section 26-28-109 may make an anatomical gift by a document of gift signed by the person making the gift or by that person's oral communication that is electronically recorded or is contemporaneously reduced to a record and signed by the individual receiving the oral communication.

(2) Subject to Subsection (3), an anatomical gift by a person authorized under Section 26-28-109 may be amended or revoked orally or in a record by any member of a prior class who is reasonably available. If more than one member of the prior class is reasonably available, the gift made by a person authorized under Section 26-28-109 may be:

(a) amended only if a majority of the reasonably available members agree to the amending of the gift; or

(b) revoked only if a majority of the reasonably available members agree to the revoking of the gift or if they are equally divided as to whether to revoke the gift.

(3) A revocation under Subsection (2) is effective only if, before an incision has been made to remove a part from the donor's body or before invasive procedures have begun to prepare the recipient, the procurement organization, transplant hospital, or physician or technician knows of the revocation.

Section 13. Section **26-28-111** is enacted to read:

26-28-111. Persons that may receive anatomical gift -- Purpose of anatomical gift.

(1) An anatomical gift may be made to the following persons named in the document of gift:

(a) a hospital, accredited medical school, dental school, college, university, organ procurement organization, or other appropriate person, for research or education;

(b) subject to Subsection (2), an individual designated by the person making the anatomical gift if the individual is the recipient of the part; or

(c) an eye bank or tissue bank.

(2) If an anatomical gift to an individual under Subsection (1)(b) cannot be transplanted into the individual, the part passes in accordance with Subsection (7) in the absence of an express, contrary indication by the person making the anatomical gift.

422 (3) If an anatomical gift of one or more specific parts or of all parts is made in a
423 document of gift that does not name a person described in Subsection (1) but identifies the
424 purpose for which an anatomical gift may be used, the following rules apply:

425 (a) If the part is an eye and the gift is for the purpose of transplantation or therapy, the
426 gift passes to the appropriate eye bank.

427 (b) If the part is tissue and the gift is for the purpose of transplantation or therapy, the
428 gift passes to the appropriate tissue bank.

429 (c) If the part is an organ and the gift is for the purpose of transplantation or therapy,
430 the gift passes to the appropriate organ procurement organization as custodian of the organ.

431 (d) If the part is an organ, an eye, or tissue and the gift is for the purpose of research or
432 education, the gift passes to the appropriate procurement organization.

433 (4) For the purpose of Subsection (3), if there is more than one purpose of an
434 anatomical gift set forth in the document of gift but the purposes are not set forth in any
435 priority, the gift must be used for transplantation or therapy, if suitable. If the gift cannot be
436 used for transplantation or therapy, the gift may be used for research or education.

437 (5) If an anatomical gift of one or more specific parts is made in a document of gift that
438 does not name a person described in Subsection (1) and does not identify the purpose of the
439 gift, the gift may be used only for transplantation or therapy, and the gift passes in accordance
440 with Subsection (7).

441 (6) If a document of gift specifies only a general intent to make an anatomical gift by
442 words such as "donor," "organ donor," or "body donor," or by a symbol or statement of similar
443 import, the gift may be used only for transplantation or therapy, and the gift passes in
444 accordance with Subsection (7).

445 (7) For purposes of Subsections (2), (5), and (7) the following rules apply:

446 (a) If the part is an eye, the gift passes to the appropriate eye bank.

447 (b) If the part is tissue, the gift passes to the appropriate tissue bank.

448 (c) If the part is an organ, the gift passes to the appropriate organ procurement
449 organization as custodian of the organ.

450 (8) An anatomical gift of an organ for transplantation or therapy, other than an
451 anatomical gift under Subsection (1)(b), passes to the organ procurement organization as
452 custodian of the organ.

453 (9) If an anatomical gift does not pass pursuant to Subsections (2) through (8) or the
454 decedent's body or part is not used for transplantation, therapy, research, or education, custody
455 of the body or part passes to the person under obligation to dispose of the body or part.

456 (10) A person may not accept an anatomical gift if the person knows that the gift was
457 not effectively made under Section 26-28-105 or 26-28-110 or if the person knows that the
458 decedent made a refusal under Section 26-28-107 that was not revoked. For purposes of this
459 Subsection (10), if a person knows that an anatomical gift was made on a document of gift, the
460 person is considered to know of any amendment or revocation of the gift or any refusal to make
461 an anatomical gift on the same document of gift.

462 (11) Except as otherwise provided in Subsection (1)(b), nothing in this chapter affects
463 the allocation of organs for transplantation or therapy.

464 Section 14. Section **26-28-112** is enacted to read:

465 **26-28-112. Search and notification.**

466 (1) The following persons shall make a reasonable search of an individual who the
467 person reasonably believes is dead or near death for a document of gift or other information
468 identifying the individual as a donor or as an individual who made a refusal:

469 (a) a law enforcement officer, firefighter, paramedic, or other emergency rescuer
470 finding the individual;

471 (b) if no other source of the information is immediately available, a hospital, as soon as
472 practical after the individual's arrival at the hospital; and

473 (c) a law enforcement officer, firefighter, emergency medical services provider, or
474 other emergency rescuer who finds an individual who is deceased at the scene of a motor
475 vehicle accident, when the deceased individual is transported from the scene of the accident to
476 a funeral establishment licensed under Title 58, Chapter 9, Funeral Services Licensing Act:

477 (i) the law enforcement officer, firefighter, emergency medical services provider, or

other emergency rescuer shall as soon as reasonably possible, notify the appropriate organ procurement organization, tissue bank, or eye bank of:

(A) the identity of the deceased individual, if known;

(B) information, if known, pertaining to the deceased individual's legal next-of-kin in accordance with Section 26-28-109; and

(C) the name and location of the funeral establishment which received custody of and transported the deceased individual; and

(ii) the funeral establishment receiving custody of the deceased individual under this Subsection (1)(c) may not embalm the body of the deceased individual until:

(A) the funeral establishment receives notice from the organ procurement organization, tissue bank, or eye bank that the readily available persons listed as having priority in Section 26-28-109 have been informed by the organ procurement organization of the option to make or refuse to make an anatomical gift in accordance with Section 26-28-4, with reasonable discretion and sensitivity appropriate to the circumstances of the family;

(B) in accordance with federal law, prior approval for embalming has been obtained from a family member or other authorized person; and

(C) the period of time in which embalming is prohibited under Subsection (1)(c)(ii) may not exceed 24 hours after death.

(2) If a document of gift or a refusal to make an anatomical gift is located by the search required by Subsection (1)(a) and the individual or deceased individual to whom it relates is taken to a hospital, the person responsible for conducting the search shall send the document of gift or refusal to the hospital.

(3) A person is not subject to criminal or civil liability for failing to discharge the duties imposed by this section but may be subject to administrative sanctions.

Section 15. Section **26-28-113** is enacted to read:

26-28-113. Delivery of document of gift not required -- Right to examine.

(1) A document of gift need not be delivered during the donor's lifetime to be effective.

(2) Upon or after an individual's death, a person in possession of a document of gift or

a refusal to make an anatomical gift with respect to the individual shall allow examination and copying of the document of gift or refusal by a person authorized to make or object to the making of an anatomical gift with respect to the individual or by a person to which the gift could pass under Section 26-28-111.

Section 16. Section **26-28-114** is enacted to read:

26-28-114. Rights and duties of procurement organization and others.

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the Department of Public Safety and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the Department of Public Safety to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under Section 26-28-111 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under Subsection (3) or (4) may include an examination of all medical and dental records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a

procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under Subsection (1), a procurement organization shall make a reasonable search for any person listed in Section 26-28-109 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to Subsection 26-28-111(9) and Section 26-28-123, the rights of the person to which a part passes under Section 26-28-111 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under Section 26-28-111, upon the death of the donor and before embalming, burial, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

Section 17. Section **26-28-115** is enacted to read:

26-28-115. Coordination of procurement and use.

Each hospital in this state shall enter into agreements or affiliations with procurement organizations for coordination of procurement and use of anatomical gifts.

Section 18. Section **26-28-116** is enacted to read:

26-28-116. Sale or purchase of parts prohibited.

(1) Except as otherwise provided in Subsection (2), a person that for valuable

consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death commits a third degree felony.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

Section 19. Section **26-28-117** is enacted to read:

26-28-117. Other prohibited acts.

A person that, in order to obtain a financial gain, intentionally falsifies, forges, conceals, defaces, or obliterates a document of gift, an amendment, or revocation of a document of gift, or a refusal commits a third degree felony.

Section 20. Section **26-28-118** is enacted to read:

26-28-118. Immunity.

(1) A person that acts in accordance with this chapter or with the applicable anatomical gift law of another state, or attempts in good faith to do so, is not liable for the act in a civil action, criminal prosecution, or administrative proceeding.

(2) Neither the person making an anatomical gift nor the donor's estate is liable for any injury or damage that results from the making or use of the gift.

(3) In determining whether an anatomical gift has been made, amended, or revoked under this chapter, a person may rely upon representations of an individual listed in Subsection 26-28-109(1)(b), (c), (d), (e), (f), (g), or (i) relating to the individual's relationship to the donor or prospective donor unless the person knows that the representation is untrue.

Section 21. Section **26-28-119** is enacted to read:

26-28-119. Law governing validity -- Choice of law as to execution of document of gift -- Presumption of validity.

(1) A document of gift is valid if executed in accordance with:

(a) this chapter;

(b) the laws of the state or country where it was executed; or

(c) the laws of the state or country where the person making the anatomical gift was

domiciled, has a place of residence, or was a national at the time the document of gift was executed.

(2) If a document of gift is valid under this section, the law of this state governs the interpretation of the document of gift.

(3) A person may presume that a document of gift or amendment of an anatomical gift is valid unless that person knows that it was not validly executed or was revoked.

Section 22. Section **26-28-120** is enacted to read:

26-28-120. Donor registry.

(1) The Department of Public Safety may establish or contract for the establishment of a donor registry.

(2) The Driver License Division of the Department of Public Safety shall cooperate with a person that administers any donor registry that this state establishes, contracts for, or recognizes for the purpose of transferring to the donor registry all relevant information regarding a donor's making, amendment to, or revocation of an anatomical gift.

(3) A donor registry must:

(a) allow a donor or other person authorized under Section 26-28-104 to include on the donor registry a statement or symbol that the donor has made, amended, or revoked an anatomical gift;

(b) be accessible to a procurement organization to allow it to obtain relevant information on the donor registry to determine, at or near death of the donor or a prospective donor, whether the donor or prospective donor has made, amended, or revoked an anatomical gift; and

(c) be accessible for purposes of Subsections (3)(a) and (b) seven days a week on a 24-hour basis.

(4) Personally identifiable information on a donor registry about a donor or prospective donor may not be used or disclosed without the express consent of the donor, prospective donor, or person that made the anatomical gift for any purpose other than to determine, at or near death of the donor or prospective donor, whether the donor or prospective donor has

618 made, amended, or revoked an anatomical gift.

619 (5) This section does not prohibit any person from creating or maintaining a donor
620 registry that is not established by or under contract with the state. Any such registry must
621 comply with Subsections (3) and (4).

622 Section 23. Section **26-28-121** is enacted to read:

623 **26-28-121. Effect of anatomical gift on advance health care directive.**

624 (1) As used in this section:

625 (a) "Advance health care directive" means a power of attorney for health care or a
626 record signed by a prospective donor containing the prospective donor's direction concerning a
627 health care decision for the prospective donor.

628 (b) "Declaration" means a record signed by a prospective donor specifying the
629 circumstances under which a life support system may be withheld or withdrawn from the
630 prospective donor.

631 (c) "Health care decision" means any decision made regarding the health care of the
632 prospective donor.

633 (2) If a prospective donor has a declaration or advance health care directive, measures
634 necessary to ensure the medical suitability of an organ for transplantation or therapy may not be
635 withheld or withdrawn from the prospective donor, unless the declaration expressly provides to
636 the contrary.

637 Section 24. Section **26-28-122** is enacted to read:

638 **26-28-122. Cooperation between medical examiner and procurement**
639 **organization.**

640 (1) A medical examiner shall cooperate with procurement organizations to maximize
641 the opportunity to recover anatomical gifts for the purpose of transplantation, therapy, research,
642 or education.

643 (2) If a medical examiner receives notice from a procurement organization that an
644 anatomical gift might be available or was made with respect to a decedent whose body is under
645 the jurisdiction of the medical examiner and a postmortem examination is going to be

performed, unless the medical examiner denies recovery in accordance with Section 26-28-123, the medical examiner or designee shall conduct a postmortem examination of the body or the part in a manner and within a period compatible with its preservation for the purposes of the gift.

(3) A part may not be removed from the body of a decedent under the jurisdiction of a medical examiner for transplantation, therapy, research, or education unless the part is the subject of an anatomical gift. The body of a decedent under the jurisdiction of the medical examiner may not be delivered to a person for research or education unless the body is the subject of an anatomical gift. This Subsection (3) does not preclude a medical examiner from performing the medicolegal investigation upon the body or parts of a decedent under the jurisdiction of the medical examiner.

Section 25. Section **26-28-123** is enacted to read:

26-28-123. Facilitation of anatomical gift from decedent whose body is under jurisdiction of medical examiner.

(1) Upon request of a procurement organization, a medical examiner shall release to the procurement organization the name, contact information, and available medical and social history of a decedent whose body is under the jurisdiction of the medical examiner. If the decedent's body or part is medically suitable for transplantation, therapy, research, or education, the medical examiner shall release postmortem examination results to the procurement organization. The procurement organization may make a subsequent disclosure of the postmortem examination results or other information received from the medical examiner only if relevant to transplantation or therapy.

(2) The medical examiner may conduct a medicolegal examination by reviewing all medical records, laboratory test results, x-rays, other diagnostic results, and other information that any person possesses about a donor or prospective donor whose body is under the jurisdiction of the medical examiner which the medical examiner determines may be relevant to the investigation.

(3) A person that has any information requested by a medical examiner pursuant to

Subsection (2) shall provide that information as expeditiously as possible to allow the medical examiner to conduct the medicolegal investigation within a period compatible with the preservation of parts for the purpose of transplantation, therapy, research, or education.

(4) If an anatomical gift has been or might be made of a part of a decedent whose body is under the jurisdiction of the medical examiner and a postmortem examination is not required, or the medical examiner determines that a postmortem examination is required but that the recovery of the part that is the subject of an anatomical gift will not interfere with the examination, the medical examiner and procurement organization shall cooperate in the timely removal of the part from the decedent for the purpose of transplantation, therapy, research, or education.

(5) If an anatomical gift of a part from the decedent under the jurisdiction of the medical examiner has been or might be made, but the medical examiner initially believes that the recovery of the part could interfere with the postmortem investigation into the decedent's cause or manner of death, the medical examiner shall consult with the procurement organization or physician or technician designated by the procurement organization about the proposed recovery. After consultation, the medical examiner may allow the recovery.

(6) Following the consultation under Subsection (5), in the absence of mutually agreed upon protocols to resolve conflict between the medical examiner and the procurement organization, if the medical examiner intends to deny recovery, the medical examiner or designee, at the request of the procurement organization, may attend the removal procedure for the part before making a final determination not to allow the procurement organization to recover the part. During the removal procedure, the medical examiner or designee may allow recovery by the procurement organization to proceed, or, if the medical examiner or designee reasonably believes that the part may be involved in determining the decedent's cause or manner of death, deny recovery by the procurement organization.

(7) If the medical examiner or designee denies recovery under Subsection (6), the medical examiner or designee shall:

(a) explain in a record the specific reasons for not allowing recovery of the part;

(b) include the specific reasons in the records of the medical examiner; and

(c) provide a record with the specific reasons to the procurement organization.

(8) If the medical examiner or designee allows recovery of a part under Subsection (4), (5), or (6), the procurement organization, upon request, shall cause the physician or technician who removes the part to provide the medical examiner with a record describing the condition of the part, a biopsy, a photograph, and any other information and observations that would assist in the postmortem examination.

(9) If a medical examiner or designee is required to be present at a removal procedure under Subsection (6), upon request the procurement organization requesting the recovery of the part shall reimburse the medical examiner or designee for the additional costs incurred in complying with Subsection (6).

Section 26. Section **26-28-124** is enacted to read:

26-28-124. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 27. Section **26-28-125** is enacted to read:

26-28-125. Relation to electronic signatures in global and national commerce act.

This act modifies, limits, and supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit or supersede Section 101(a) of that act, 15 U.S.C. Section 7001, or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. Section 7003(b).

Section 28. Section **53-1-106** is amended to read:

53-1-106. Department duties -- Powers.

(1) In addition to the responsibilities contained in this title, the department shall:

(a) make rules and perform the functions specified in Title 41, Chapter 6a, Traffic Code, including:

(i) setting performance standards for towing companies to be used by the department, as required by Section 41-6a-1406; and

(ii) advising the Department of Transportation regarding the safe design and operation of school buses, as required by Section 41-6a-1304;

(b) make rules to establish and clarify standards pertaining to the curriculum and teaching methods of a motor vehicle accident prevention course under Section 31A-19a-211;

(c) aid in enforcement efforts to combat drug trafficking;

(d) meet with the Department of Technology Services to formulate contracts, establish priorities, and develop funding mechanisms for dispatch and telecommunications operations;

(e) provide assistance to the Crime Victims' Reparations Board and Reparations Office in conducting research or monitoring victims' programs, as required by Section 63-25a-405;

(f) develop sexual assault exam protocol standards in conjunction with the Utah Hospital Association;

(g) engage in emergency planning activities, including preparation of policy and procedure and rulemaking necessary for implementation of the federal Emergency Planning and Community Right to Know Act of 1986, as required by Section 63-5-5;

(h) implement the provisions of Section 53-2-202, the Emergency Management Assistance Compact; and

(i) (i) maintain a database of the information listed below regarding each driver license or state identification card status check made by a law enforcement officer:

(A) the agency employing the law enforcement officer;

(B) the name of the law enforcement officer or the identifying number the agency has assigned to the law enforcement officer;

(C) the race and gender of the law enforcement officer;

(D) the purpose of the law enforcement officer's status check, including but not limited to a traffic stop or a pedestrian stop; and

(E) the race of the individual regarding whom the status check is made, based on the information provided through the application process under Section 53-3-205 or 53-3-804;

(ii) provide access to the database created in Subsection (1)(i)(i) to the Commission on Criminal and Juvenile Justice for the purpose of:

(A) evaluating the data;
(B) evaluating the effectiveness of the data collection process; and
(C) reporting and making recommendations to the Legislature; and
(iii) classify any personal identifying information of any individual, including law enforcement officers, in the database as protected records under Subsection 63-2-304(9).

(2) (a) The department may establish a schedule of fees as required or allowed in this title for services provided by the department.

(b) The fees shall be established in accordance with Section 63-38-3.2.

(3) The department may establish or contract for the establishment of an Organ
Procurement Donor Registry in accordance with Section 26-28-120.

Section 29. Section **53-3-205** is amended to read:

**53-3-205. Application for license or endorsement -- Fee required -- Tests --
Expiration dates of licenses and endorsements -- Information required -- Previous
licenses surrendered -- Driving record transferred from other states -- Reinstatement --
Fee required -- License agreement.**

(1) An application for any original license, provisional license, or endorsement shall be:

(a) made upon a form furnished by the division; and

(b) accompanied by a nonrefundable fee set under Section 53-3-105.

(2) An application and fee for an original provisional class D license or an original class D license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and the skills tests for a class D license within six months of the date of the application;

(b) a learner permit if needed pending completion of the application and testing process; and

(c) an original class D license and license certificate after all tests are passed.

(3) An application and fee for an original class M license entitle the applicant to:

(a) not more than three attempts to pass both the knowledge and skills tests for a class

786 M license within six months of the date of the application;

787 (b) a motorcycle learner permit if needed after the knowledge test is passed; and

788 (c) an original class M license and license certificate after all tests are passed.

789 (4) An application and fee for a motorcycle or taxicab endorsement entitle the

790 applicant to:

791 (a) not more than three attempts to pass both the knowledge and skills tests within six

792 months of the date of the application;

793 (b) a motorcycle learner permit if needed after the motorcycle knowledge test is

794 passed; and

795 (c) a motorcycle or taxicab endorsement when all tests are passed.

796 (5) An application and fees for a commercial class A, B, or C license entitle the

797 applicant to:

798 (a) not more than two attempts to pass a knowledge test and not more than two

799 attempts to pass a skills test within six months of the date of the application;

800 (b) a commercial driver instruction permit if needed after the knowledge test is passed;

801 and

802 (c) an original commercial class A, B, or C license and license certificate when all

803 applicable tests are passed.

804 (6) An application and fee for a CDL endorsement entitle the applicant to:

805 (a) not more than two attempts to pass a knowledge test and not more than two

806 attempts to pass a skills test within six months of the date of the application; and

807 (b) a CDL endorsement when all tests are passed.

808 (7) If a CDL applicant does not pass a knowledge test, skills test, or an endorsement

809 test within the number of attempts provided in Subsection (5) or (6), each test may be taken

810 two additional times within the six months for the fee provided in Section 53-3-105.

811 (8) (a) Except as provided under Subsections (8)(f), (g), and (h), an original license

812 expires on the birth date of the applicant in the fifth year following the year the license

813 certificate was issued.

(b) Except as provided under Subsections (8)(f), (g), and (h), a renewal or an extension to a license expires on the birth date of the licensee in the fifth year following the expiration date of the license certificate renewed or extended.

(c) Except as provided under Subsections (8)(f) and (g), a duplicate license expires on the same date as the last license certificate issued.

(d) An endorsement to a license expires on the same date as the license certificate regardless of the date the endorsement was granted.

(e) A license and any endorsement to the license held by a person ordered to active duty and stationed outside Utah in any of the armed forces of the United States, which expires during the time period the person is stationed outside of the state, is valid until 90 days after the person has been discharged or has left the service, unless:

(i) the license is suspended, disqualified, denied, or has been cancelled or revoked by the division; or

(ii) the licensee updates the information or photograph on the license certificate.

(f) An original license or a renewal to an original license obtained using proof under Subsection (9)(a)(i)(E)(III) expires on the date of the expiration of the applicant's foreign visa, permit, or other document granting legal presence in the United States or on the date provided under this Subsection (8), whichever is sooner.

(g) (i) An original license or a renewal or a duplicate to an original license expires on the next birth date of the applicant or licensee beginning on July 1, 2005 if:

(A) the license was obtained without using a Social Security number as required under Subsection (9); and

(B) the license certificate or driving privilege card is not clearly distinguished as required under Subsection 53-3-207(6).

(ii) A driving privilege card issued or renewed under Section 53-3-207 expires on the birth date of the applicant in the first year following the year that the driving privilege card was issued or renewed.

(iii) The expiration dates provided under Subsections (8)(g)(i) and (ii) do not apply to

an original license or driving privilege card or to the renewal of an original license or driving privilege card with an expiration date provided under Subsection (8)(f).

(h) An original license or a renewal to an original license expires on the birth date of the applicant in the first year following the year that the license was issued if the applicant is required to register as a sex offender under Section 77-27-21.5.

(9) (a) In addition to the information required by Title 63, Chapter 46b, Administrative Procedures Act, for requests for agency action, each applicant shall:

(i) provide the applicant's:

(A) full legal name;

(B) birth date;

(C) gender;

(D) between July 1, 2002 and July 1, 2007, race in accordance with the categories established by the United States Census Bureau;

(E) (I) Social Security number;

(II) temporary identification number (ITIN) issued by the Internal Revenue Service for a person who does not qualify for a Social Security number; or

(III) (Aa) proof that the applicant is a citizen of a country other than the United States;

(Bb) proof that the applicant does not qualify for a Social Security number; and

(Cc) proof of legal presence in the United States, as authorized under federal law; and

(F) Utah residence address as documented by a form acceptable under rules made by the division under Section 53-3-104, unless the application is for a temporary CDL issued under Subsection 53-3-407(2)(b);

(ii) provide a description of the applicant;

(iii) state whether the applicant has previously been licensed to drive a motor vehicle and, if so, when and by what state or country;

(iv) state whether the applicant has ever had any license suspended, cancelled, revoked, disqualified, or denied in the last six years, or whether the applicant has ever had any license application refused, and if so, the date of and reason for the suspension, cancellation,

870 revocation, disqualification, denial, or refusal;

871 (v) state whether the applicant intends to make an anatomical gift under Title 26,
872 Chapter 28, Revised Uniform Anatomical Gift Act, in compliance with Subsection (16);

873 (vi) state whether the applicant is required to register as a sex offender under Section
874 77-27-21.5;

875 (vii) state whether the applicant is a military veteran and does or does not authorize
876 sharing the information with the state Division of Veterans' Affairs;

877 (viii) provide all other information the division requires; and

878 (ix) sign the application which signature may include an electronic signature as defined
879 in Section 46-4-102.

880 (b) Each applicant shall have a Utah residence address, unless the application is for a
881 temporary CDL issued under Subsection 53-3-407(2)(b).

882 (c) The division shall maintain on its computerized records an applicant's:

883 (i) (A) Social Security number;

884 (B) temporary identification number (ITIN); or

885 (C) other number assigned by the division if Subsection (9)(a)(i)(E)(III) applies; and

886 (ii) indication whether the applicant is required to register as a sex offender under
887 Section 77-27-21.5.

888 (d) An applicant may not be denied a license for refusing to provide race information
889 required under Subsection (9)(a)(i)(D).

890 (10) The division shall require proof of every applicant's name, birthdate, and
891 birthplace by at least one of the following means:

892 (a) current license certificate;

893 (b) birth certificate;

894 (c) Selective Service registration; or

895 (d) other proof, including church records, family Bible notations, school records, or
896 other evidence considered acceptable by the division.

897 (11) When an applicant receives a license in another class, all previous license

certificates shall be surrendered and canceled. However, a disqualified commercial license may not be canceled unless it expires before the new license certificate is issued.

(12) (a) When an application is received from a person previously licensed in another state to drive a motor vehicle, the division shall request a copy of the driver's record from the other state.

(b) When received, the driver's record becomes part of the driver's record in this state with the same effect as though entered originally on the driver's record in this state.

(13) An application for reinstatement of a license after the suspension, cancellation, disqualification, denial, or revocation of a previous license shall be accompanied by the additional fee or fees specified in Section 53-3-105.

(14) A person who has an appointment with the division for testing and fails to keep the appointment or to cancel at least 48 hours in advance of the appointment shall pay the fee under Section 53-3-105.

(15) A person who applies for an original license or renewal of a license agrees that the person's license is subject to any suspension or revocation authorized under this title or Title 41, Motor Vehicles.

(16) (a) The indication of intent under Subsection (9)(a)(v) shall be authenticated by the licensee in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section ~~[26-28-2]~~ 26-28-102, the names and addresses of all persons who under Subsection (9)(a)(v) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform licensees of anatomical gift options, procedures, and benefits.

(17) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may release to the Division of Veterans' Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection (9)(a)(vii).

(18) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection (9)(a)(v) or (vii), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

(19) A person who knowingly fails to provide the information required under Subsection (9)(a)(vi) is guilty of a class A misdemeanor.

Section 30. Section **53-3-207** is amended to read:

53-3-207. License certificates or driving privilege cards issued to drivers by class of motor vehicle -- Contents -- Release of anatomical gift information -- Temporary licenses or driving privilege cards -- Minors' licenses, cards, and permits -- Violation.

(1) As used in this section:

(a) "driving privilege" means the privilege granted under this chapter to drive a motor vehicle;

(b) "driving privilege card" means the evidence of the privilege granted and issued under this chapter to drive a motor vehicle;

(c) "governmental entity" means the state and its political subdivisions as defined in this Subsection (1);

(d) "political subdivision" means any county, city, town, school district, public transit district, redevelopment agency, special improvement or taxing district, special district, an entity created by an interlocal agreement adopted under Title 11, Chapter 13, Interlocal Cooperation Act, or other governmental subdivision or public corporation; and

(e) "state" means this state, and includes any office, department, agency, authority, commission, board, institution, hospital, college, university, children's justice center, or other instrumentality of the state.

(2) (a) The division shall issue to every person privileged to drive a motor vehicle, a license certificate or a driving privilege card indicating the type or class of motor vehicle the person may drive.

(b) A person may not drive a class of motor vehicle unless granted the privilege in that class.

(3) (a) Every license certificate or driving privilege card shall bear:

(i) the distinguishing number assigned to the person by the division;

(ii) the name, birth date, and Utah residence address of the person;

(iii) a brief description of the person for the purpose of identification;

(iv) any restrictions imposed on the license under Section 53-3-208;

(v) a photograph of the person;

(vi) a photograph or other facsimile of the person's signature; and

(vii) an indication whether the person intends to make an anatomical gift under Title 26, Chapter 28, Revised Uniform Anatomical Gift Act, unless the driving privilege is extended under Subsection 53-3-214(3).

(b) A new license certificate issued by the division may not bear the person's Social Security number.

(c) (i) The license certificate or driving privilege card shall be of an impervious material, resistant to wear, damage, and alteration.

(ii) Except as provided under Subsection (4)(b), the size, form, and color of the license certificate or driving privilege card shall be as prescribed by the commissioner.

(iii) The commissioner may also prescribe the issuance of a special type of limited license certificate or driving privilege card under Subsection 53-3-220(4) and may authorize the issuance of a renewed or duplicate license certificate or driving privilege card without a picture if the applicant is not then living in the state.

(4) (a) (i) The division upon determining after an examination that an applicant is mentally and physically qualified to be granted a driving privilege may issue to an applicant a receipt for the fee.

(ii) The receipt serves as a temporary license certificate or temporary driving privilege card allowing the person to drive a motor vehicle while the division is completing its investigation to determine whether the person is entitled to be granted a driving privilege.

(b) The receipt shall be in the person's immediate possession while driving a motor vehicle, and it is invalid when the person's license certificate or driving privilege card has been issued or when, for good cause, the privilege has been refused.

(c) The division shall indicate on the receipt a date after which it is not valid as a license certificate or driving privilege card.

(5) (a) The division shall distinguish learner permits, temporary permits, license certificates, and driving privilege cards issued to any person younger than 21 years of age by use of plainly printed information or the use of a color or other means not used for other license certificates or driving privilege cards.

(b) The division shall distinguish a license certificate or driving privilege card issued to any person:

(i) younger than 21 years of age by use of a portrait-style format not used for other license certificates or driving privilege cards and by plainly printing the date the license certificate or driving privilege card holder is 21 years of age, which is the legal age for purchasing an alcoholic beverage or product under Section 32A-12-203; and

(ii) younger than 19 years of age, by plainly printing the date the license certificate or driving privilege card holder is 19 years of age, which is the legal age for purchasing tobacco products under Section 76-10-104.

(6) (a) The division shall only issue a driving privilege card to a person whose privilege was obtained without using a Social Security number as required under Subsection 53-3-205(9).

(b) The division shall distinguish a driving privilege card from a license certificate by:

(i) use of a format, color, font, or other means; and

(ii) clearly displaying on the front of the driving privilege card a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY -- NOT VALID FOR IDENTIFICATION".

(7) The provisions of Subsection (5)(b) do not apply to a learner permit, temporary permit, or any other temporary permit or receipt issued by the division.

(8) The division shall issue temporary license certificates or temporary driving

1010 privilege cards of the same nature, except as to duration, as the license certificates or driving
1011 privilege cards that they temporarily replace, as are necessary to implement applicable
1012 provisions of this section and Section 53-3-223.

1013 (9) A governmental entity may not accept a driving privilege card as proof of personal
1014 identification.

1015 (10) A person who violates Subsection (2)(b) is guilty of a class C misdemeanor.

1016 (11) Except as provided under this section, the provisions, requirements, classes,
1017 endorsements, fees, restrictions, and sanctions under this code apply to a:

1018 (a) driving privilege in the same way as a license issued under this chapter; and

1019 (b) driving privilege card in the same way as a license certificate issued under this
1020 chapter.

1021 Section 31. Section **53-3-804** is amended to read:

1022 **53-3-804. Application for identification card -- Required information -- Release**
1023 **of anatomical gift information.**

1024 (1) To apply for an identification card, the applicant shall:

1025 (a) be a Utah resident;

1026 (b) have a Utah residence address; and

1027 (c) appear in person at any license examining station.

1028 (2) The applicant shall provide the following information to the division:

1029 (a) true and full legal name and Utah residence address;

1030 (b) date of birth as set forth in a certified copy of the applicant's birth certificate, or
1031 other satisfactory evidence of birth, which shall be attached to the application;

1032 (c) Social Security number;

1033 (d) place of birth;

1034 (e) height and weight;

1035 (f) color of eyes and hair;

1036 (g) between July 1, 2002 and July 1, 2007, race in accordance with the categories
1037 established by the United States Census Bureau;

- 1038 (h) signature;
- 1039 (i) photograph;
- 1040 (j) an indication whether the applicant intends to make an anatomical gift under Title
- 1041 26, Chapter 28, Revised Uniform Anatomical Gift Act;
- 1042 (k) an indication whether the applicant is required to register as a sex offender under
- 1043 Section 77-27-21.5; and
- 1044 (l) an indication whether the applicant is a military veteran and does or does not
- 1045 authorize sharing the information with the state Division of Veterans' Affairs.
- 1046 (3) The requirements of Section 53-3-234 apply to this section for each person, age 16
- 1047 and older, applying for an identification card. Refusal to consent to the release of information
- 1048 shall result in the denial of the identification card.
- 1049 (4) An applicant may not be denied an identification card for refusing to provide race
- 1050 information required under Subsection (2)(g).
- 1051 (5) A person who knowingly fails to provide the information required under Subsection
- 1052 (2)(k) is guilty of a class A misdemeanor.
- 1053 Section 32. Section **53-3-805** is amended to read:
- 1054 **53-3-805. Identification card -- Contents -- Specifications.**
- 1055 (1) (a) The division shall issue an identification card that bears:
- 1056 (i) the distinguishing number assigned to the person by the division;
- 1057 (ii) the name, birth date, and Utah residence address of the person;
- 1058 (iii) a brief description of the person for the purpose of identification;
- 1059 (iv) a photograph of the person;
- 1060 (v) a photograph or other facsimile of the person's signature; and
- 1061 (vi) an indication whether the person intends to make an anatomical gift under Title 26,
- 1062 Chapter 28, Revised Uniform Anatomical Gift Act.
- 1063 (b) An identification card issued by the division may not bear the person's Social
- 1064 Security number or place of birth.
- 1065 (2) (a) The card shall be of an impervious material, resistant to wear, damage, and

alteration.

(b) Except as provided under Section 53-3-806, the size, form, and color of the card is prescribed by the commissioner.

(3) At the applicant's request, the card may include a statement that the applicant has a special medical problem or allergies to certain drugs, for the purpose of medical treatment.

(4) (a) The indication of intent under Subsection 53-3-804(2)(j) shall be authenticated by the applicant in accordance with division rule.

(b) (i) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may, upon request, release to an organ procurement organization, as defined in Section ~~[26-28-2]~~ 26-28-102, the names and addresses of all persons who under Subsection 53-3-804(2)(j) indicate that they intend to make an anatomical gift.

(ii) An organ procurement organization may use released information only to:

(A) obtain additional information for an anatomical gift registry; and

(B) inform applicants of anatomical gift options, procedures, and benefits.

(5) Notwithstanding Title 63, Chapter 2, Government Records Access and Management Act, the division may release to the Division of Veterans' Affairs the names and addresses of all persons who indicate their status as a veteran under Subsection 53-3-804(2)(l).

(6) The division and its employees are not liable, as a result of false or inaccurate information provided under Subsection 53-3-804(2)(j) or (l), for direct or indirect:

(a) loss;

(b) detriment; or

(c) injury.

Section 33. Section **76-9-704** is amended to read:

76-9-704. Abuse or desecration of a dead human body -- Penalties.

(1) For purposes of this section, "dead human body" includes any part of a human body in any stage of decomposition, including ancient human remains.

(2) A person is guilty of abuse or desecration of a dead human body if the person

1094 intentionally and unlawfully:

1095 (a) fails to report the finding of a dead human body to a local law enforcement agency;

1096 (b) disturbs, moves, removes, conceals, or destroys a dead human body or any part of

1097 it;

1098 (c) disinters a buried or otherwise interred dead human body, without authority of a

1099 court order;

1100 (d) dismembers a dead human body to any extent, or damages or detaches any part or

1101 portion of a dead human body; or

1102 (e) (i) commits or attempts to commit upon any dead human body any act of sexual

1103 penetration, regardless of the sex of the actor and of the dead human body; and

1104 (ii) as used in Subsection (2)(e)(i), "sexual penetration" means penetration, however

1105 slight, of the genital or anal opening by any object, substance, instrument, or device, including

1106 a part of the human body, or penetration involving the genitals of the actor and the mouth of

1107 the dead human body.

1108 (3) A person does not violate this section if when that person directs or carries out

1109 procedures regarding a dead human body, that person complies with:

1110 (a) Title 9, Chapter 8, Part 3, Antiquities;

1111 (b) Title 26, Chapter 4, Utah Medical Examiner Act;

1112 (c) Title 26, Chapter 28, Revised Uniform Anatomical Gift Act;

1113 (d) Title 53B, Chapter 17, Part 3, Use of Dead Bodies for Medical Purposes;

1114 (e) Title 58, Chapter 9, Funeral Services Licensing Act; or

1115 (f) Title 58, Chapter 67, Utah Medical Practice Act, which concerns licensing to

1116 practice medicine.

1117 (4) (a) Failure to report the finding of a dead human body as required under Subsection

1118 (2)(a) is a class B misdemeanor.

1119 (b) Abuse or desecration of a dead human body as described in Subsections (2)(b)

1120 through (e) is a third degree felony.

1121 Section 34. **Repealer.**

1122 This bill repeals:
1123 Section **26-28-1, Short title.**
1124 Section **26-28-2, Definitions.**
1125 Section **26-28-3, Anatomical gifts -- Eligibility to make -- Procedures.**
1126 Section **26-28-4, Anatomical gifts by others -- Donations or revocations.**
1127 Section **26-28-5, Authorization by medical examiner for anatomical gift.**
1128 Section **26-28-6, Routine inquiry and required request -- Search and notification.**
1129 Section **26-28-7, Persons eligible to act pursuant to anatomical gifts.**
1130 Section **26-28-8, Delivery of document of gift.**
1131 Section **26-28-9, Rights and duties at death.**
1132 Section **26-28-10, Sale or purchase of parts prohibited.**
1133 Section **26-28-11, Examination -- Liability.**
1134 Section **26-28-12, Uniformity of application and construction.**
1135 Section 35. **Effective date.**
1136 This bill takes effect on July 1, 2007.